
HOUSE BILL No. 1185

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-40.

Synopsis: Employee/victim right to attend proceedings. Provides that an employee who is the victim of a crime may take unpaid leave from work to attend court proceedings and confer with the prosecuting attorney concerning the crime unless the employee's absence would cause significant difficulty or expense to an employer. Prohibits an employer from reducing employee benefits to an employee who exercises the employee's rights as a victim, or from refusing to employ a person who has exercised the person's rights as a victim, and requires that employment records concerning an employee's absence be kept confidential. Requires a prosecuting attorney to advise a victim of the victim's rights as an employee. Makes other changes.

Effective: July 1, 2006.

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January 9, 2006, read first time and referred to Committee on Employment and Labor.

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Introduced

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

HOUSE BILL No. 1185

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 35-40-4-4.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2006]: **Sec. 4.5. "Employee" means a victim employed by an**
4 **employer.**
- 5 SECTION 2. IC 35-40-4-4.6 IS ADDED TO THE INDIANA CODE
6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2006]: **Sec. 4.6. "Employer" means a person who:**
- 8 (1) **employed or will employ at least fifty (50) persons for each**
9 **working day in each of twenty (20) or more calendar weeks in**
10 **the current calendar year; or**
- 11 (2) **employed at least fifty (50) persons for each working day**
12 **in each of twenty (20) or more calendar weeks in the previous**
13 **calendar year.**
- 14 **The term includes a person who acts directly or indirectly in the**
15 **interest of an employer in relation to an employee.**
- 16 SECTION 3. IC 35-40-5-10 IS ADDED TO THE INDIANA CODE
17 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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IN 1185—LS 6975/DI 106



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1, 2006]: **Sec. 10. (a)** Subject to subsections (b), (c), and (f), an employee has the right to leave work to exercise the employee's right as a victim to:

(1) be present at a proceeding in accordance with:

(A) sections 5 through 7 of this chapter; and

(B) IC 35-40-11-1; and

(2) confer with a representative of the prosecuting attorney's office in accordance with section 3 of this chapter.

(b) An employer:

(1) may not:

(A) dismiss an employee; or

(B) reduce or restrict the:

(i) seniority;

(ii) precedence;

(iii) eligibility for a promotion;

(iv) eligibility for a salary increase; or

(v) eligibility for any other work related benefit;

of an employee who exercises the employee's rights under this section;

(2) may require an employee to use the employee's accrued vacation time, personal time, sick time, or compensatory leave time during the period the employee is absent from work while exercising the employee's rights under this section; and
(3) is not required to compensate an employee for any work time lost due to the employee's exercise of the employee's rights under this section.

(c) An employee may not exercise the employee's rights under this section unless the employee provides the employer with a copy of:

(1) the notice of victim's rights provided to the employee under IC 35-40-6-4; and

(2) any notice of scheduled proceedings that has been provided to the employee.

(d) Records maintained by an employer concerning an employee's exercise of the employee's rights under this section are confidential.

(e) An employer may not refuse to employ a person because the person has exercised the person's rights under this section.

(f) An employer may restrict the amount of time an employee is absent under this section if the employee's absence would create significant difficulty or cause significant expense to the employer in light of the size of the employer's business and the importance

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1 **of the employee to the operation of the employer's business.**

2 SECTION 4. IC 35-40-6-4 IS AMENDED TO READ AS
3 FOLLOWS: Sec. 4. A prosecuting attorney or a victim assistance
4 program shall do the following:

5 (1) Inform a victim that the victim may be present at all public
6 stages of the criminal justice process to the extent that:

7 (A) the victim's presence and statements do not interfere with
8 a defendant's constitutional rights; and

9 (B) there has not been a court order restricting, limiting, or
10 prohibiting attendance at the criminal proceedings.

11 (2) Timely notify a victim of all criminal justice hearings and
12 proceedings that are scheduled for a criminal matter in which the
13 victim was involved.

14 (3) Promptly notify a victim when a criminal court proceeding has
15 been rescheduled or canceled.

16 (4) Obtain an interpreter or translator, if necessary, to advise a
17 victim of the rights granted to a victim under the law.

18 (5) Coordinate efforts of local law enforcement agencies that are
19 designed to promptly inform a victim after an offense occurs of
20 the availability of, and the application process for, community
21 services for victims and the families of victims, including
22 information concerning services such as the following:

23 (A) Victim compensation funds.

24 (B) Victim assistance resources.

25 (C) Legal resources.

26 (D) Mental health services.

27 (E) Social services.

28 (F) Health resources.

29 (G) Rehabilitative services.

30 (H) Financial assistance services.

31 (I) Crisis intervention services.

32 (J) Transportation and child care services to promote the
33 participation of a victim or a member of the victim's
34 immediate family in the criminal proceedings.

35 (6) Inform the victim that the court may order a defendant
36 convicted of the offense involving the victim to pay restitution to
37 the victim under IC 35-50-5-3.

38 (7) Upon request of the victim, inform the victim of the terms and
39 conditions of release of the person accused of committing a crime
40 against the victim.

41 (8) Upon request of the victim, give the victim notice of the
42 criminal offense for which:

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- 1 (A) the defendant accused of committing the offense against
2 the victim was convicted or acquitted; or
3 (B) the charges were dismissed against the defendant accused
4 of committing the offense against the victim.
5 (9) In a county having a victim-offender reconciliation program
6 (VORP), provide an opportunity for a victim, if the accused
7 person or the offender agrees, to:
8 (A) meet with the accused person or the offender in a safe,
9 controlled environment;
10 (B) give to the accused person or the offender, either orally or
11 in writing, a summary of the financial, emotional, and physical
12 effects of the offense on the victim and the victim's family; and
13 (C) negotiate a restitution agreement to be submitted to the
14 sentencing court for damages incurred by the victim as a result
15 of the offense.
16 (10) Assist a victim in preparing verified documentation
17 necessary to obtain a restitution order under IC 35-50-5-3.
18 (11) Advise a victim of other rights granted to a victim under the
19 law, **including the rights of an employee under IC 35-40-5-10.**

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